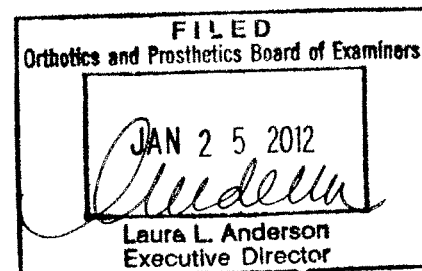


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STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
NEW JERSEY ORTHOTICS AND PROSTHETICS
BOARD OF EXAMINERS

IN THE MATTER OF	:	
	:	Administrative Action
EDWARD PEGUERO, C.O.,	:	
Certificate # 45OR00001400	:	CONSENT ORDER
	:	
LICENSED TO PRACTICE AS AN	:	
<u>ORTHOTIST IN THE STATE OF NEW JERSEY:</u>	:	

This matter was opened to the New Jersey Orthotics and Prosthetics Board of Examiners (Board) upon receipt of information that Edward Peguero (respondent), licensed in the State of New Jersey as an orthotist, engaged in professional misconduct. Specifically, respondent aided and abetted the unlicensed practice of orthotics by knowingly allowing an unlicensed individual, Joseph A. Porcello, a licensed Athletic Trainer, but not a licensed Orthotist, to treat patients using respondent's licensing credentials.

In his February 5, 2011 response to a Demand for Written Statement Under Oath (Demand), respondent admitted that from

January 2010 through July 2010, he rendered orthotic services to Pectus Services/Porcello, whereby respondent went to Porcello's office, evaluated and examined seven (7) patients with pectus deformities or conditions, and measured the patients to be fitted with the T-Joe Brace (brace), a Class 1 FDA device created and manufactured by Porcello. Respondent explained that he identified and located the pectus deformity and performed specific measurements on these patients whom he regarded not as his patients of record but as Porcello's patients. Respondent further admitted that he provided orthotic services at Pectus Services specifically because Porcello was not a licensed orthotist and had requested respondent's services.

Respondent acknowledged that he was not provided with doctors' prescriptions although he was aware that a prescription was required in order for a patient to be fitted with this orthotic device. Respondent also admitted that he did not fill out any order forms for the brace; did not develop patient care plans; did not create or maintain individual patient charts or records; did not follow up with the patients; did not modify, adjust or make changes to the brace; did not counsel patients or make recommendations as to how long the brace should be worn; and was not present when the patients were fitted with the brace.

Although respondent did not bill the patients directly, he sent invoices to and received remuneration directly from Pectus

Services/Porcello reflecting that he billed Porcello \$200.00 per patient for orthotist services rendered between January 2010 and July 2010.

Respondent's license to practice orthotics in New Jersey has expired February 28, 2011 and has not been renewed. As a result, respondent's license has been and is currently suspended, without a hearing, by application of N.J.S.A. 45:1-7.1(b).

Having reviewed the entire record, it appears to the Board that respondent has engaged in professional misconduct in that he aided and abetted the unlicensed practice of orthotics as defined in the Orthotics and Prosthetics Act, N.J.S.A. 45:12B-17 in violation of N.J.S.A. 45:1-11(n). Further, respondent failed to conform to the professional responsibilities of a licensed orthotist, including but not limited to, preparing and maintaining contemporaneous client records, evaluation of patients, formulation of treatment plans and follow-up treatment plans, and fitting and adjusting of orthotic appliances, in violation of N.J.A.C. 13:44-9.1 and N.J.A.C. 13:44H-2.1 respectively.

These facts establish bases for disciplinary action pursuant to N.J.S.A. 45:1-21(e), (h), and (n) for professional misconduct, aiding and abetting unlicensed practice, and failing to maintain patient records.

It appearing that respondent desires to resolve this matter without recourse to formal proceedings, having waived any right to such proceedings and for good cause shown;

IT IS ON THIS 6th DAY OF January, 2011
HEREBY ORDERED AND AGREED THAT:

1. Respondent shall immediately cease and desist from aiding and abetting the unlicensed practice of orthotics.

2. Respondent shall pay a civil penalty, pursuant to N.J.S.A. 45:1-25, in the total amount of fourteen hundred dollars (\$1,400.00) for aiding and abetting the unlicensed practice of Orthotics and Prosthetics.

3. Payment of the civil penalty \$1,400.00 shall be made simultaneous with the signing of this Consent Order, by certified check or money order made payable to the State of New Jersey forwarded to Laura L. Anderson, Executive Director, Board of Orthotics and Prosthetics Examiners, 124 Halsey Street, P.O. Box 45034, Newark, New Jersey 07101.

4. Prior to consideration of his application for reinstatement of his New Jersey license, respondent shall appear before the Board or a committee of the Board, demonstrate that he meets all statutory and regulatory requirements and provide information concerning his activities during the period his license was expired and has been administratively suspended pursuant to N.J.S.A. 45:1-7.1(b). The Board reserves the right to deny

reinstatement, take disciplinary action and place restrictions and/or limitations upon respondent's license to practice orthotics in the State of New Jersey.

5. Subsequent violations will subject respondent to enhanced penalties pursuant to N.J.S.A. 45:1-25.

6. Failure to timely remit any and all payments required by this order will result in the filing of a certificate of debt as well as other proceedings permitted by law.

BOARD OF ORTHOTICS AND PROSTHETICS EXAMINERS

By: 

Louis J. Haberman, C.P.O.
Board President

I have read and understand the within Consent Order and agree to be bound by its terms. Consent is hereby given to the Board to enter this Order.


Edward Peguero, C.O.
Date : 1/6/2012